

**UNITED STATES TAX COURT**  
**Washington, D. C. 20217**

BRUCE P. PLASSE,	)	
	)	
Petitioner	)	
	)	
v.	)	Docket No. 9699-04L
	)	
COMMISSIONER OF INTERNAL REVENUE,	)	
	)	
Respondent.	)	

**O R D E R**

On June 10, 2004, a Petition for Lien or Levy Action Under Code Section 6320(c) or 6330(d) was filed to commence this case. On July 12, 2004, the Court received a document from petitioner titled "Letter to Tax Court proving no Notice of Deficiency and Request for Tax Court to show Jurisdiction in this Case" which was filed by the Court as petitioner's Motion to Dismiss for Lack of Jurisdiction. On July 26, 2004, the Court received a document from petitioner titled "Response to United States Tax Courts Motion to Dismiss, Not Requested by Petitioner" which was filed as a Supplement to Motion to Dismiss for Lack of Jurisdiction. On August 4, 2004, respondent filed a Response to Motion to Dismiss for Lack of Jurisdiction and attached thereto a copy of a Notice of Determination Concerning Collection Action Under Code Section(s) 6320 and/or 6330 dated May 11, 2004, for petitioner's taxable year 1999. On August 9, 2004, the Court received from petitioner a document titled "Plaintiff Formally Withdraws Petition to Tax Court do to Lack of Jurisdiction, Plaintiff Now Moves to Petition a Court of Proper Jurisdiction, Plaintiff Does Not Move to Dismiss Actions Against IRS" which was filed as petitioner's Motion to Withdraw Petition. By Order and Order of Dismissal for Lack of Jurisdiction entered August 23, 2004, petitioner's motion to dismiss for lack of jurisdiction, as supplemented, was denied and petitioner's motion to withdraw was granted in that the case was dismissed. On September 13, 2004, the Court received a letter from petitioner titled "Response to Tax Courts Dismissal of August 23, 2004" which has been filed as petitioner's Motion for Reconsideration.



BRUCE P. PLASSE  
Docket No. 9699-04L

-2-

This case is based upon the issuance of a Notice of Determination Concerning Collection Action Under Section(s) 6320 and/or 6330 dated May 1, 2004, for petitioner's Federal income tax liability for the taxable year 1999 and not upon the issuance of a notice of deficiency. In his motion for reconsideration petitioner contends that he did not file a motion to dismiss but only asked that the Court prove it had jurisdiction. The documents received by the Court on July 12, 2004 and July 26, 2004, question the Court's jurisdiction, and, if the Court had found that it did not have jurisdiction this case would have to have been dismissed for lack of jurisdiction. Consequently, the documents received by the Court on July 12, 2004 and July 26, 2004, were properly filed as petitioner's Motion to Dismiss for Lack of Jurisdiction and as petitioner's Supplement to Motion to Dismiss for Lack of Jurisdiction, respectively. See Green v. Commissioner, T.C. Memo. 2003-7. For the reasons set forth in the Court's Order and Order of Dismissal for Lack of Jurisdiction the Court found that it had jurisdiction in this case and, therefore, denied petitioner's motion to dismiss for lack of jurisdiction, as supplemented. However, this Court has held that a case based upon a notice of determination concerning collection action over which this Court has jurisdiction may be dismissed upon request of the petitioner. See, Wagner v. Commissioner, 118 T.C. 330 (2002). Accordingly, the Court granted petitioner's Motion to Withdraw in that the case was dismissed. As a result of this case being dismissed petitioner will not be able to file another petition in this Court seeking review of the May 11, 2004, notice of determination and respondent will be able to proceed with collection as determined in that notice.

The foregoing considered, it is

ORDERED that petitioner's Motion for Reconsideration, is denied.

(Signed) Joel Gerber

Joel Gerber  
Chief Judge

Dated: Washington, D. C.  
September 30, 2004